

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

DWIGHT ABERNATHIE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
CARL HART, <i>et al.</i> ,	)	No. 4:23-CV-01044-RLW
	)	
Defendants.	)	
	)	
	)	

**ANSWER AND AFFIRMATIVE DEFENSES**

Defendants Edwin Messersmith, Gary Teifenauer, Leo Thomas, Renee Neel, and William Campbell, by and through undersigned counsel, hereby answer Plaintiff's Complaint as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted that Carl Hart was a sergeant on duty on October 28, 2021 at ERDCC. Defendants lack sufficient or information with regard to the truth of the remaining averments contained in paragraph 4, and therefore deny the same.

5. Admitted that Defendant Thomas was a Lieutenant on duty on October 28, 2021 at ERDCC. Defendants deny the remaining averments in paragraph 5.
6. Admitted that Defendant Neel was a Captain on duty on October 28, 2021 at ERDCC. Defendants deny the remaining averments in paragraph 6.
7. Admitted that Defendant Campbell was a Sergeant on duty on October 28, 2021 at ERDCC. Defendants deny the remaining averments in paragraph 7.
8. Admitted that Defendant Tiefenauer was a corrections officer on duty on October 28, 2021 at ERDCC. Defendants deny the remaining averments in paragraph 8.
9. Admitted that Defendant Messersmith was a corrections officer on duty on October 28, 2021 at ERDCC. Defendants deny the remaining averments in paragraph 9.
10. Defendants lack sufficient or information with regard to the truth of the averments contained in paragraph 4, and therefore deny the same.
11. Defendants lack sufficient or information with regard to the truth of the averments contained in paragraph 11, and therefore deny the same.

12. Defendants lack sufficient or information with regard to the truth of the averments contained in paragraph 12, and therefore deny the same.
13. Defendants lack sufficient or information with regard to the truth of the averments contained in paragraph 13, and therefore deny the same.
14. Defendants lack sufficient or information with regard to the truth of the averments contained in paragraph 14, and therefore deny the same.
15. Defendants lack sufficient or information with regard to the truth of the averments contained in paragraph 15, and therefore deny the same.
16. Defendants lack sufficient or information with regard to the truth of the averments contained in paragraph 16, and therefore deny the same.
17. Defendants lack sufficient or information with regard to the truth of the averments contained in paragraph 17, and therefore deny the same.
18. Defendants lack sufficient or information with regard to the truth of the averments contained in paragraph 18, and therefore deny the same.

19. Defendants lack sufficient or information with regard to the truth of the averments contained in paragraph 19, and therefore deny the same.

20. Defendants deny the averments contained in paragraph 20.

21. Defendants deny the averments contained in paragraph 21.

22. Defendants lack sufficient or information with regard to the truth of the allegations contained in paragraph 22, and therefore denies the same.

23. Defendants lack sufficient or information with regard to the truth of the allegations contained in paragraph 23, and therefore denies the same.

24. Defendants deny the averments contained in paragraph 24.

25. Defendants deny the averments contained in paragraph 25.

26. Defendants deny the averments contained in paragraph 26.

27. Defendants deny the averments contained in paragraph 27.

28. Defendants deny the averments contained in paragraph 28.

29. Defendants deny the averments contained in paragraph 29.

30. Defendants deny the averments contained in paragraph 30.

31. Defendants deny the averments contained in paragraph 31.

32. Defendants admit the averments contained in paragraph 32.

33. Defendants deny the averments contained in paragraph 33.

34. Defendants deny the averments contained in paragraph 34.

35. Defendants deny the averments contained in paragraph 35.

36. Defendants deny the averments contained in paragraph 36.

37. Defendants lack sufficient or information with regard to the truth of the allegations contained in paragraph 37, and therefore denies the same.

38. Defendants deny the averments contained in paragraph 38.

39. Defendants deny the averments contained in paragraph 39.

40. Admitted.

41. Admitted.

42. Defendants deny the averments contained in paragraph 42.

43. Defendants incorporate all previous answers as if fully set forth herein.

44. The allegations contained in paragraph 44 are assertions of law that need be neither admitted nor denied; to the extent any facts are asserted in an attempt to state a claim against Defendant, such facts are denied.

45. Defendants deny the averments contained in paragraph 45.

46. Defendants deny the averments contained in paragraph 46.

47. Defendants deny the averments contained in paragraph 47.

48. Defendants deny the averments contained in paragraph 48.

49. Defendants deny the averments contained in paragraph 49.

50. Defendants deny the averments contained in paragraph 50.

51. Defendants deny the averments contained in paragraph 51.

52. Defendants deny the averments contained in paragraph 52.

53. Defendants deny the averments contained in paragraph 53.

54. Defendants incorporate all previous answers as if fully set forth herein.

55. Defendants deny the averments contained in paragraph 55.

56. Defendants deny the averments contained in paragraph 56.

57. The allegations contained in paragraph 57 are assertions of law that need be neither admitted nor denied; to the extent any facts are asserted in an attempt to state a claim against Defendant, such facts are denied.

58. The allegations contained in paragraph 58 are assertions of law that need be neither admitted nor denied; to the extent any facts are asserted in an attempt to state a claim against Defendant, such facts are denied.

59. The allegations contained in paragraph 59 are assertions of law that need be neither admitted nor denied; to the extent any facts are asserted in an attempt to state a claim against Defendant, such facts are denied.

60. Defendants incorporate all previous answers as if fully set forth herein.

61. Defendants deny the averments contained in paragraph 61.

62. Defendants deny the averments contained in paragraph 62.

63. Defendants deny the averments contained in paragraph 63.

64. Defendants deny the averments contained in paragraph 64.

65. Defendants deny the averments contained in paragraph 65.

66. Defendants deny the averments contained in paragraph 66.

67. Defendants deny the averments contained in paragraph 67.

68. Defendants incorporate all previous answers as if fully set forth herein.

69. The allegations contained in paragraph 69 are assertions of law that need be neither admitted nor denied; to the extent any facts are asserted in an attempt to state a claim against Defendant, such facts are denied.

70. The allegations contained in paragraph 70 are assertions of law that need be neither admitted nor denied; to the extent any facts are asserted in an attempt to state a claim against Defendant, such facts are denied.

71. The allegations contained in paragraph 71 are assertions of law that need be neither admitted nor denied; to the extent any facts are

asserted in an attempt to state a claim against Defendant, such facts are denied.

72. Defendants deny that Plaintiff is entitled to damages against Defendants.

73. Defendants incorporate all previous answers as if fully set forth herein.

74. Defendants deny the averments contained in paragraph 74.

75. Defendants deny the averments contained in paragraph 75.

76. Defendants deny the averments contained in paragraph 76.

77. Defendants deny the averments contained in paragraph 77.

78. Defendants deny the averments contained in paragraph 78.

79. Defendants incorporate all previous answers as if fully set forth herein.

80. The allegations contained in paragraph 80 are assertions of law that need be neither admitted nor denied; to the extent any facts are asserted in an attempt to state a claim against Defendant, such facts are denied.

81. Defendants deny the averments contained in paragraph 81.

82. Defendants deny the averments contained in paragraph 82.

83. Defendants deny the averments contained in paragraph 83.

84. Defendants deny the averments contained in paragraph 84.



85. Defendants deny the averments contained in paragraph 85.

86. Defendants deny that Plaintiff is entitled to any damages.

### **Additional Responses**

Defendants further deny any and all allegations within Plaintiff's Complaint not specifically admitted herein. Defendants deny that Plaintiff is entitled to any of the relief requested within the complaint.

### **Jury Trial Demand**

Defendants hereby demand a jury trial.

### **Affirmative Defenses**

#### *First Affirmative Defense*

For further answer, and as an affirmative defense, Defendants state that Plaintiff's complaint fails to state a claim upon which relief can be granted and should be dismissed pursuant to Fed.R.Civ.P. 12(b)(6).

#### *Second Affirmative Defense*

For further answer and as an affirmative defense, Defendants are entitled to qualified immunity for all claims against them because any actions taken by Defendants in regard to Plaintiff were done under the reasonable and good-faith belief that said actions were constitutional and compliant with applicable law.

*Third Affirmative Defense*

For further answer, and as an affirmative defense, and to the extent that Plaintiff seeks to hold Defendants liable for the alleged actions or inactions of others, his claim is premised on the doctrine of *respondeat superior*, which is not a basis for liability under 42 U.S.C. § 1983 and/or state law.

*Fourth Affirmative Defense*

For further answer and as an affirmative defense, and to the extent that Plaintiff seeks monetary damages against Defendants in their official capacities, such relief is prohibited by the Eleventh Amendment to the United States Constitution.

*Fifth Affirmative Defense*

For further answer and as an affirmative defense, and to the extent that Plaintiff has sued Defendants in their official capacities, they are not “persons” within the meaning of 42 U.S.C. § 1983. Plaintiff, therefore, fails to state a claim under § 1983 upon which relief can be granted.

*Sixth Affirmative Defense*

For further answer and as an affirmative defense, Defendants state that the injuries and/or damages suffered by Plaintiff were due to and caused by

Plaintiff's own acts and conduct and, accordingly, the principles of comparative fault should be applied.

*Seventh Affirmative Defense*

For further answer and as an affirmative defense, Defendants state that if discovery shows that Plaintiff has failed to properly exhaust his administrative remedies, specifically, though not necessarily only, under 42 U.S.C. § 1997e, then Plaintiff's claim is not cognizable under the Prison Litigation Reform Act.

*Eighth Affirmative Defense*

For further answer and as an affirmative defense, Defendants state that punitive damages are not available for the actions alleged in Plaintiff's Amended Complaint under federal and state law.

*Ninth Affirmative Defense*

For further answer, and as an affirmative defense, Defendants incorporate each and every additional affirmative defense that may be uncovered or made known during the investigation and discovery of this case. Defendants specifically reserve the right to amend their Answer to include additional affirmative defenses at a later time.

Respectfully submitted,

**ANDREW BAILEY**  
Attorney General

/s/ Eric Doner

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*Attorney for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that on December 13, 2023, the foregoing was filed electronically with the Clerk of the Court, which sent notification to all counsel of record.

/s/ Eric Doner  
Assistant Attorney General